

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARY C. VANDENHEEDE,

Plaintiff,

Case No. 12-12284

vs.

HON. GEORGE CARAM STEEH

FRANK B. VECCHIO, individually  
and as trustee of the DONALD J.  
CHINN TRUST, FRANK A. BORSCHKE,  
individually and as trustee of the DONALD  
J. CHINN TRUST, BUTZEL LONG, and  
DOEREN MAYHEW & CO., P.C.,

Defendants.

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ORDER REOPENING CASE AND DENYING  
PLAINTIFF'S MOTION FOR SANCTIONS [DOC. 33]

Plaintiff Mary C. Vandenheede filed suit in this court against the co-trustees of the Donald J. Chinn Revocable Trust ("Chinn Trust), Frank B. Vecchio and Frank A. Borschke, as well as the Chinn Trust's accounting firm, Doeren Mayhew, and law firm, Butzel Long. Plaintiff alleged a violation of 26 U.S.C. § 7434(a) for filing a false and fraudulent tax form, civil conspiracy, intentional infliction of emotional distress, and detrimental reliance/breach of contract. This court granted defendants' motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c) on all counts, and Vandenheede appealed. The Sixth Circuit Court of Appeals affirmed this court's decision, but remanded the case for a decision on plaintiff's motion for sanctions filed against Vecchio and his law firm Butzel Long.

In her motion for sanctions, plaintiff asked this court to strike Vecchio and Butzel Long's reply brief to its motion for judgment on the pleadings pursuant to Rule 12(f).

Plaintiff additionally asked the court to order monetary sanctions against the two defendants under Rule 11. For the reasons that follow, plaintiff's motion for sanctions is DENIED.

According to plaintiff, Vecchio and Butzel Long falsely stated that Vandenhede prevailed against the IRS by asserting that Chinn's daughters maliciously caused the issuance of the 1099s, but that she now argues that defendants were the ones who maliciously caused the 1099s to issue. By accusing Vandenhede of making false, inconsistent statements under oath, defendants impugned her character and accused her of engaging in fraudulent behavior that is also felonious under various federal statutes.

This court had Vecchio and Butzel Long's reply brief in support of their motion for judgment on the pleadings when the motion was granted, as did the Sixth Circuit Court of Appeals when this court's order was affirmed. Plaintiff's motion to strike the reply brief is therefore moot and DENIED. Defendants made the offending statement in their reply brief as support for their argument that plaintiff is judicially estopped from now arguing that Vecchio and Butzel Long caused the false returns to be filed. Defendants notably did not argue that plaintiff engaged in fraud or any other illegality, nor did they expressly impugn her character. Importantly, neither court considered the offending argument for such improper purposes. For these reasons, plaintiff's motion for monetary sanctions is also DENIED.

Dated: December 31, 2013

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on  
December 31, 2013, by electronic and/or ordinary mail.

s/Marcia Beauchemin  
Deputy Clerk